

REMARKS/ARGUMENT

Amendments to the Claims

Claims 35-54 are pending in this application.

Entry of the amendments cancelling claims 11-34 and adding new claims 35-54, as shown in the above Listing of Claims, is respectfully requested. (Claims 1-10 were cancelled in the preliminary amendment.) The new claims add no new subject matter. All of the new claims 35-54 are directed to the examiner's Group III of the Lack of Unity of Invention Requirement, as elected by applicants in their previous reply paper.

Cancelled, independent cosmetic composition claim 25 is replaced by new, independent cosmetic composition claim 35. The proviso in new independent claim 35 reads "wherein the ratio by weight of C₆₋₂₂ alkyl groups to ethoxylated C₆₋₂₂ alkyl groups in the mixture is from 10:1 to 1:1", rather than "the mixture consisting of about 25 to 30% of monoesters, 30 to 40% of diesters and 5 to 15% of triesters and, optionally, up to 8% free citric acid" as in cancelled claim 25. The new proviso is supported by the specification at page 2, lines 22-29 (and original claim 3). (This new proviso is also included in the definition of component (B) in new independent claims 47 and 51.)

New claim 36 corresponds to cancelled claim 26.

New claim 37, 38, 42, 48 and 52, wherein the C₆₋₂₂ alkyl groups are preferably a C₁₂₋₁₈ alkyl groups are supported by the specification at page 5, lines 6-7 and at page 5, line 29 to page 6, line 1.

New claims 39, 49 and 53, wherein "the ratio of C₆₋₂₂ alkyl groups to ethoxylated C₆₋₂₂ alkyl groups is from 4:1 to 1:1", are also supported by the specification at page 2, lines 22-29 and original claim 3.

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New claims 40, 50 and 54, wherein "the ratio of mono-esters to diesters in the mixtures component (B) is from 1:1 to 2:1", are supported by the specification at page 3, lines 19-21.

New claims 41, 47 (independent) and 53 (independent), wherein the composition further comprises "an alkyl ether sulfate, an alkyl oligoglycoside, a fatty alcohol ethoxylate, a fatty alcohol or mixtures thereof and water", are supported in the specification at page 4, lines 13-16.

New claim 43, wherein the fatty alcohol ethoxylates are defined by formula II, is supported by the specification at page 5, lines 9-19.

New claims 44 and 47 (independent), wherein the composition further comprises an alkyl ether sulfate of formula V, are supported by the specification at page 7, lines 15-27.

New claims 45 and 51 (independent), wherein the composition further comprises an alkyl or alkenyl oligoglycoside of formula IV, are supported by the specification at page 6, lines 3-11.

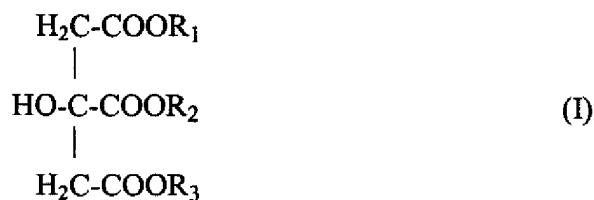
Accordingly, applicants submit that the new claims are fully supported by the original specification and claims and add no new matter. Entry of the new claims as shown in the above Listing of Claims and continued examination based on the same is therefore respectfully requested.

Rejection for Obviousness over US 6,024,947

In the subject Office Action, elected cosmetic composition claims 25-30 are rejected under 35 USC §103(a) as being obvious over US Patent 6,024,947 to Gagnebien et al. Applicants respectfully request reconsideration and withdrawal of the rejection for obviousness with respect to new claims 35-54 for the reasons presented below.

As shown in the Abstract, Gagnebien et al. is directed to the following citric acid ester compositions:

"The invention relates to cosmetic compositions of improved rinsability, comprising an oily phase and a citric acid ester corresponding to formula (I):



in which R_1 , R_2 and R_3 , which may be identical or different, represent a hydrogen atom, an alkali metal or alkaline-earth metal, an ammonium cation or a cation of an organic base or a group of formula (II):



with $n=2, 3$ or 4

$m=5-30$ and

R_4 represents a saturated, linear or branched $C_8 - C_{24}$ alkyl group, at least one of R_1 , R_2 and R_3 being a group of formula (II). These compositions are used in particular for cleansing and/or removing make-up from the skin."

(bold added)

In component B of applicants' claimed cosmetic compositions of independent claim 35, 47 and 51, on the other hand, the alcohol components of the esters are defined as follows:

R' , R'' , R''' , independently, represent a hydrogen atom, a C_{6-22} alkyl group, or an ethoxylated C_{6-22} alkyl group, the ethoxylated alkyl group containing 2 to 20 parts ethylene oxide per alkyl group, with the proviso that at least one of the substituents R' , R'' and R''' represents such an ethoxylated alkyl group, wherein the ratio by weight of C_{6-22} alkyl groups to ethoxylated C_{6-22} alkyl groups in the mixture is from 10:1 to 1:1

(Underlining added)

Thus, contrary to the examiner's statement, the difference between the citric acid esters of Gagnebien et al. and the instantly claimed citric acid esters is that the instantly claimed citric acid esters are a mixture of alkyl esters and ethoxylated esters. Further in applicants' component (B), the ratio by weight of C_{6-22} alkyl groups to ethoxylated C_{6-22} alkyl groups in the mixture is from 10:1 to 1:1. Since there are no alkyl esters in the Gagnebien et al., there is no required ratio of the two types of ester components such that both types of ester alcohol components are indeed present in all of the possible claimed citric acid ester mixtures.

Nowhere does Gagnebien et al. suggest such a mixture of ester components including alkyl esters. Applicants therefore respectfully submit that the examiner's rejection for obviousness over Gagnebien et al. cannot stand. The reference itself does not provide any motivation or assurance of success with respect to all of the limitations of applicants' claimed subject matter, namely, a mixture of alkoxylated and alkyl esters, i.e. from simple alcohols. Withdrawal of the rejection is therefore respectfully requested.

As noted in its abstract, the Gagnebien et al. alkoxylated citric acid esters are for use in oily phase compositions to improve the rinsability of the oily phases. Column 1, lines 55-67 of Gagnebien et al. states that oxyethoxylated partial esters of citric acid are disclosed in EP-A-199,131, which reference was included in the present applicants' Information Disclosure Statement. The citric acid esters of EP-A-199,131 also have no ester mixtures including alkyl esters, i.e. from simple alcohols. Further, the citric acid esters of EP-A-199,131 are for use in aqueous solutions. For example, the shampoo of example 8 includes 68% demineralized water. Applicants submit that EP-A-199,131 therefore further demonstrates the unobviousness of applicants' claimed citric acid esters comprising a mixture of alkoxylated and alkyl esters.

Independent claims 47 and 51, directed to aqueous cosmetic compositions of claim 35 which further include component (C), namely, an alkyl ether sulfate of formula V (claim 47) or an alkyl or alkenyl oligoglycoside of formula IV (claim 51), are unobvious over Gagnebien et al. for the further reason that they include these additional components. Neither alkyl ether sulfates nor alkyl or alkenyl oligoglycosides are mentioned in Gagnebien et al. Moreover, Gagnebien et al., at column 2, lines 57-63, teaches that other surfactants are not desired in its compositions. Still further, at column 2, lines 49-51, Gagnebien et al. teaches that its compositions are preferably in the form of an oily lotion or an oily gel or an oil-in-water emulsion, rather than the aqueous mixtures presently claimed. Thus, applicants submit that independent claims 47 and 51 also present nonobvious subject matter over Gagnebien et al.

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There are no further rejections in the subject Office Action. It is believed that the foregoing amendment and reply are completely responsive under 35 CFR 1.111 and that all grounds of rejection are completely avoided and/or overcome. Applicants therefore respectfully request that a timely Notice of Allowance with respect to all of pending claims 35-54 be issued in this application.

The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,

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